United Nations A/HRC/28/NGO/61

General Assembly

Distr.: General
20 February 2015

English and Spanish only

Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the France Libertes : Fondation Danielle Mitterrand, American Association of Jurists, Emmaus International Association, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03114 (E)
1503114

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The promotion of clean energy through hydroelectric projects puts the human right to water in rural communities in Honduras at risk*

Water is the essence of life. Drinking water and sanitation are indispensable for life, health, and fundamental to the dignity of every person. Thus the Universal Declaration of Human Rights establishes that everyone has the right to a "standard of living adequate for the health and wellbeing of himself" including food and housing[1]. It is clear that this right cannot be enjoyed in its entirety without the population having access to the minimal quantities and qualities of this resource.

The International Covenant on Civil and Political Rights (ICCPR) establishes a series of rights whose fulfillment requires access to water and proclaims that in no circumstances may people be deprived of their own means of subsistence and that "every human being has the inherent right to life."[2] The International Covenant on Economic, Social, and Cultural Rights (ICESCR) also implicitly recognizes the human right to water through the right of every person to an adequate standard of living[3] and to the enjoyment of the highest attainable standard of physical and mental health.[4] The Committee on Economic, Social and Cultural Rights defines the right to water in its General Comment No. 15 as the right of everyone "to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses."[5]

The State of Honduras is party to relevant conventions, treaties, and international agreements that oblige it to respect life, health and natural resources and to take measures for the fulfillment of : the Universal Declaration of Human Rights[6], the Convention on Biological Diversity[7], Convention 169 on Indigenous People[8], Convention for the Protection of World Culture and Natural Heritage[9], United Nations Convention on Climate Change[10], Convention for the Conservation of Biodiversity and Protection of Wildlife Areas in Central America[11]. The State of Honduras has inadequately implemented and complied with all these agreements.

In recent years the Honduran government has been promoting the use of hydroelectric projects as the best way to reverse the energy matrix that is mostly composed of private energy projects dependent on fossil fuels. To do this, it has established a new energy policy and has declared the use of renewable resources for the production of "clean" energy as a matter of public utility and national interest. However, for the implementation of the new policy, a legal framework has been created that grants excessive benefits to private capital companies, the State thus becoming their principal benefactor.

The granting of territories for hydroelectric development infringes upon the legal framework on biodiversity and the protection of water sources that have been built between the State and civil society organizations. This is the case of the thirty-seven protected areas that have been declared under Decree 87-87. Currently, due to the pressure exerted by private developers for the establishment of mining and hydroelectric projects, the State seems to have decided to disregard the laws in order to allow construction of permanent development projects inside the protected areas that have

[1] Article 25, Universal Declaration of Human Rights, 1948
[2] Article 6, International Covenant on Civil and Political Rights, 1976
[3] Article 11, International Covenant on Economic, Social and Cultural Rights, 1966
[4] *Ibid*, Article 12
[5] Committee on Economic, Social and Cultural Rights (2002), General Observations No. 15, E/C. 12/2002/11, January 20, 2003, p. 2
[6] Article 25, Universal Declaration of Human Rights, 1948
[7] Article 8, Convention of Biological Diversity
[8] Article 7, number 4 and Article 13, numbers 1 and 2, Convention 169 on Indigenous People.
[9] Article 2, Convention for the Protection of World Culture and Natural Heritage
[10] Article 4, subsection F, United Nations Convention on Climate Change
[11] Articles 14 and 17, Convention for the Conservation of Biodiversity and Protection of Wildlife Areas in Central America

been public reserves of water, forest and biodiversity. Concerning the protection of water sources, both the current law and the forestry law that preceded it have declared certain zones as protected forestry areas, protecting the water supply for human consumption and representing a sufficient legal instrument to achieve the absolute protection of small river basins. However, at the present time, the Honduran State has issued environmental licenses for the construction of hydroelectric projects within small river basins which would violate the legal framework that for years, communities, authorities and other actors have recognized as a guarantor for the protection of water sources and therefore the human right to water.

People's lives and means of subsistence intimately depend on fresh water ecosystems: their fish resources provide an important source of income and nutrition. rivers are extremely important routes and frequently the only source of transportation, communication and essential to the cultural diversity of the region. Should this problem continue, it is more than likely that the projects' impacts become irreversible. As for service provision, surface water in Honduras and mainly rivers and streams are the primary source of water for human activities. Modification of the flow downstream from the dams affects the quality of the water and makes the river water unusable for human consumption.

Such is the situation in which inhabitants in different communities in the municipality of San Francisco Atlántida (Northern Honduras) are currently living. Since 1921, the communities obtain their water supply from the Cuyamel River in the Nombre de Dios mountain range that was declared a protected forest area, according to agreement GG-PMF-1998. In 2010, the company CONERSA S.A. obtained the concession for the Cuyamel River against the will of the affected communities and since that time the populations have carried out multiple protests demanding that the authorities nullify the concession contract on Cuyamel River waters.

In 2013, the population has witnessed how the national army has moved a battalion's camp to the entrance of the small river basin, preventing local residents' free access to their water source and interrupting their management of their clean drinking water and maintenance of the water supply system, as well as other activities related to the river basin.

The human right to water is an affirmation held by communities and other civil society groups so we remind the Member States of the UN Human Rights Council that good water management is a condition for peace, security, sustainable development, the eradication of poverty and the enjoyment of basic human rights such as the rights to water and sanitation, alimentation, health and, finally, life. In this regard, we are requesting:

- The Special Rapporteur on the situation of human rights defenders
- The Special Rapporteur on the human right to safe drinking water and sanitation
- The Working Group on the issue of human rights and transnational corporations and other business enterprises

To urge the State of Honduras to comply with the following requests:

- To guarantee the implementation of the human right to water without restrictions of any kind
- To halt the approval of development projects (hydropower, mining and others) that affect the water, soil, air and the rights of communities.
- To provide the necessary economic resources to promote community water management, as well as the implementation of integrated management of water resources.
- To respect the designation of hydrographic small river basins as water sources for human consumption in order to guarantee perpetual protection and conservation of water sources.

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* Coalición Nacional de Redes y Organizaciones Ambientales (CONROA), a NGO without consultative status, also shares the views expressed in this statement.